

Zoning Text Amendment No.: 15-12
Concerning: Overlay Zone –
Montgomery Village
Draft No. & Date: 1-11/16/15
Introduced: December 1, 2015
Public Hearing:
Adopted:
Effective:
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: The Council President at the request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- establish the Montgomery Village Overlay Zone

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

ARTICLE 59-2.	“Zones and Zoning Map”
Section 2.1.2.	“Zoning Categories”
ARTICLE 59-4.	“Development Standards for Euclidean Zones”
Section 59.4.9.	“Overlay Zones”
Section 4.9.10.	“Regional Shopping Center (RSC) Overlay Zone”
Section 4.9.11.	“Ripley/South Silver Spring (RSS) Overlay Zone”
Section 4.9.12.	“Rural Village Center (RVC) Overlay Zone”
Section 4.9.13.	“Sandy Spring/Ashton Rural Village (SSA) Overlay Zone”
Section 4.9.14.	“Takoma Park/East Silver Spring Commercial Revitalization (TPESS) Overlay Zone”
Section 4.9.15.	“Transferable Development Rights (TDR) Overlay Zone”
Section 4.9.16.	Twinbrook (TB) Overlay Zone
Section 4.9.17.	Upper Paint Branch (UPB) Overlay Zone
Section 4.9.18.	Upper Rock Creek (URC) Overlay Zone

And adding

Section 59.4.9.10. “Montgomery Village (MV) Overlay Zone”

EXPLANATION: **Boldface** indicates a Heading or a defined term.

Underlining indicates text that is added to existing law by the original text amendment.

[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.

Double underlining indicates text that is added to the text amendment by amendment.

[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.

* * * indicates existing law unaffected by the text amendment.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. ARTICLE 59-2 is amended as follows:

DIVISION 2.1. Zones Established

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Section 2.1.2. Zoning Categories

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G. Overlay Zones

1. There are [17] 18 Overlay zone classifications:

- a. Burtonsville Employment Area (BEA),
- b. Chevy Chase Neighborhood Retail (CCNR),
- c. Clarksburg East Environmental (CEE),
- d. Clarksburg West Environmental (CWE),
- e. Community-serving Retail (CSR),
- f. Fenton Village (FV),
- g. Garrett Park (GP),
- h. Germantown Transit Mixed Use (GTMU),
- i. Montgomery Village
- [i] j. Regional Shopping Center (RSC),
- [j] k. Ripley/South Silver Spring (RSS),
- [k] l. Rural Village Center (RVC),
- [l] m. Sandy Spring/Ashton Rural Village (SSA),
- [m] n. Takoma Park/East Silver Spring Commercial Revitalization (TPESS),
- [n] o. Transferable Development Rights (TDR),
- [o] p. Twinbrook (TB),
- [p] q. Upper Paint Branch (UPB), and
- [q] r. Upper Rock Creek (URC).

2. Building types, uses, density, height, and other standards and requirements may be modified by the Overlay zones under Section 4.9.2 through Section [4.9.18] 4.9.19.

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Sec. 2. ARTICLE 59-4 is amended as follows:

DIVISION 4.9. Overlay Zones

* * *

Section 4.9.10. Montgomery Village (MV) Overlay Zone

A. Purpose

The purpose of the MV Overlay zone is to:

1. Preserve the unique character of Montgomery Village.
2. Protect existing open space and conservation areas.
3. Ensure a compatible relationship between new and existing development.

B. Land Uses

1. In the RE-1 zone, all uses are prohibited except the following, which are permitted:
 - a. Agricultural Vending;
 - b. Recreation and Entertainment Facility, Outdoor (Capacity up to 1,000 Persons), such as an amphitheater or a swimming pool;
 - c. Recreation and Entertainment Facility, Indoor (Capacity up to 1,000 persons), such as an indoor swimming pool;
 - d. Distribution Line (Below Ground);
 - e. Pipeline (Below Ground);
 - f. Playground, Outdoor (Private);
 - g. Seasonal Outdoor Sales;
 - h. Solar Collection System;

- i. Child Day Care in Community Centers; and
- j. An Accessory Use associated with any of the above uses.
2. In the RE-1 zone, any of the allowed features in open space under Section 6.3.3.A are permitted, except for above-ground utility rights-of-way.
3. Applications for a Floating zone on land classified in the RE-1 zone are prohibited.

C. Development Standards

In addition to any other requirements of Division 6.3 and Chapter 50, common and public open space in Montgomery Village must be recorded within a separate lot or parcel with a protective easement or covenant in the land records, in a form approved by the Planning Board.

D. Site Plan and Record Plat

1. Site plan approval under Section 7.3.4 is required for all development in the MV Overlay zone, except for:
 - a. construction of an accessory structure;
 - b. construction of a structure less than 5,000 square feet in size in the RE-1 zone;
 - c. the modification or expansion of an existing detached house, duplex, townhouse, or accessory structure; or
 - d. a conditional use.
2. Record plats must show all land designated for open space and have a statement on the plat granting public access to those lands.
3. A certified site plan must show all land designated for open space.

E. Existing Buildings and Uses

1. A legal structure or site design existing on {DAY BEFORE EFFECTIVE DATE} that does not meet its current zoning is

conforming and may be continued, renovated, repaired, or
reconstructed if the floor area, height, and footprint of the structure is
not increased, except as provided below.

2. On a lot that has not changed in size or shape since {INSERT THE
EFFECTIVE DATE}, a detached house, duplex, or townhouse may
be constructed, reconstructed, or expanded:

- a. without regard to the minimum lot size or lot width at the front
building line; and
- b. in a manner that satisfies the maximum building height and lot
coverage of its current zone and the side, front, and rear setback
that was required when the lot was first created.

3. A legal use existing on {DAY BEFORE EFFECTIVE DATE} is
conforming and may be continued. Expansion of any such use must
satisfy the use standards of the current zone under Article 59-3, except
the following:

- a. An existing Charitable, Philanthropic Institution (as defined by
Section 3.4.2); or
- b. an existing Storage Facility (as defined by Section 3.6.8.e.1)
owned and operated by a Charitable, Philanthropic Institution
may expand by up to the lesser of 10% or 30,000 square feet.

Any expansion is exempt from the conditional use process, but must
satisfy Section 4.9.10.D.

Section [4.9.10] 4.9.11. Regional Shopping Center (RSC) Overlay Zone

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Section [4.9.11] 4.9.12. Ripley/South Silver Spring (RSS) Overlay Zone

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Section [4.9.12] 4.9.13. Rural Village Center (RVC) Overlay Zone

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C. Development Standards

1. Where a lot is either partially or totally in a Commercial/Residential zone:

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- e. In addition to the parking requirements in Division 6.2:

* * *

- iii. For any cumulative enlargement of a surface parking facility that is greater than 50% of the total parking area approved before November 4, 2002, the entire off-street parking facility must be brought into conformance with Section [4.9.12] 4.9.13.

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Section [4.9.13] 4.9.14. Sandy Spring/Ashton Rural Village (SSA) Overlay Zone

* * *

Section [4.9.14] 4.9.15. Takoma Park/East Silver Spring Commercial Revitalization (TPESS) Overlay Zone

* * *

Section [4.9.15] 4.9.16. Transferable Development Rights (TDR) Overlay Zone

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Section [4.9.16] 4.9.17. Twinbrook (TB) Overlay Zone

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Section [4.9.17] 4.9.18. Upper Paint Branch (UPB) Overlay Zone

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B. Exemptions

The following are exempt from Section [4.9.17] 4.9.18:

* * *

C. Land Uses

1. Except as listed in Section [4.9.17.C.2] 4.9.18.C.2 and Section [4.9.17.C.3] 4.9.18.C.3, the land uses of the underlying zone apply. The use standards of the underlying zone apply unless the development standards in Section [4.9.17.D] 4.9.18.D are more restrictive, in which case Section [4.9.17.D] 4.9.18.D must be followed.

* * *

3. If validly existing on July 1, 1997, the uses in Section [4.9.17.C.2] 4.9.18.C.2 may be continued under the requirements in effect at the time the use was established. Any expansion requires compliance with the UPB Overlay zone.

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E. Waiver

The applicable review body may grant a waiver of the development standards in Section [4.9.17.D] 4.9.18.D if it finds that:

* * *

4. Alternative water quality and control techniques are used to meet the purposes of Section [4.9.17] 4.9.18.

Section [4.9.18] 4.9.19. Upper Rock Creek (URC) Overlay Zone

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B. Exemptions

1. The following are exempt from Section [4.9.18] 4.9.19:

* * *

D. Waiver

The applicable review body may grant a waiver of the development standards in Section [4.9.18.C] 4.9.19.C if it finds that:

* * *

4. Alternative water quality and quantity control techniques are used to meet the purposes of Section [4.9.18] 4.9.19.

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Sec. 3. OLD ZONING ORDINANCE TO NEW ZONING ORDINANCE SECTION CROSS REFERENCE is amended as follows:

Old ZONING ORDINANCE Article 59-C: Zoning Districts; Regulations.	New ZONING ORDINANCE
* * *	
Division 59-C-18. Overlay Zones.	
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Sec. 59-C-18.15. Environmental Overlay Zone for the Upper Paint Branch Special Protection Area.	Sec. [4.9.17] <u>4.9.18</u> . Upper Paint Branch (UPB) Overlay Zone
* * *	
Sec. 59-C-18.18. Sandy Spring/Ashton Rural Village Overlay Zone.	Sec. [4.9.13] <u>4.9.14</u> . Sandy Spring/ Ashton Rural Village (SSA) Overlay Zone
* * *	
Sec. 59-C-18.20. Ripley/South Silver Spring Overlay Zone.	Sec. [4.9.11] <u>4.9.12</u> . Ripley/South Silver Spring (RSS) Overlay Zone
Sec. 59-C-18.21. Takoma Park/East Silver Spring commercial revitalization overlay zone.	Sec. [4.9.14] <u>4.9.15</u> . Takoma Park/ East Silver Spring Commercial Revitalizations (TPESS) Overlay Zone
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Sec. 59-C-18.23. Rural village center overlay zone.	Sec. [4.9.12] <u>4.9.13</u> . Rural Village Center (RVC) Overlay Zone
Sec. 59-C-18.24. Environmental overlay zone for the Upper Rock Creek Special Protection Area.	Sec. [4.9.18] <u>4.9.19</u> . Upper Rock Creek (URC) Overlay Zone

Sec. 4. Effective date. This ordinance becomes effective 20 days after the
date of Council adoption.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council